

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

x

13 Civ. 6885 (LAP)

TONY SHAW

Plaintiff,

AMENDED COMPLAINT

Under the

-AGAINST-

Civil Rights Act, 42 U.S.C. § 1983

DORA SCHRIRO, et al.,

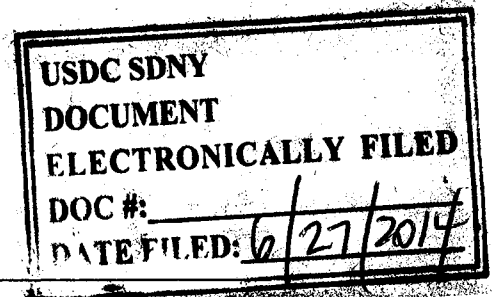
Jury Trial: (Yes)

Defendant,

x

I. Parties in this complaint:

A. Plaintiff, Tony shaw, DIN: 12A2399
Wende Correctional Facility
3040 Wende Road
Alden, N.Y. 14004-1187

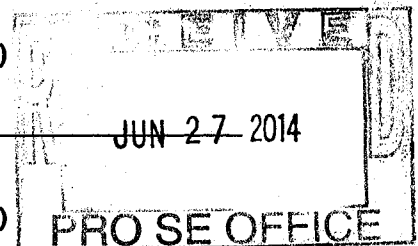


B. Defendant No. 1 Dora Schriro, NYCDC Commissioner
75-20 Astoria Blvd.
Jackson Heights, N.Y. 11370

Defendant No. 2 Captain Blassingame
George R. Vierno Center (GRVC)
09-09 Hazen Street
East Elmhurst, N.Y. 11370

Defendant No. 3 Correction Officer Carentz
George R. Vierno Center (GRVC)
09-09 Hazen Street
East Elmhurst, N.Y. 11370

Defendant No. 4 Correction Officer Thomas
George R. Vierno Center (GRVC)
09-09 Hazen Street
East Elmhurst, N.Y. 11370



II. Statement of Claim:

Plaintiff, entered the (GRVC) Facility on April 23, 2011. On November 26, 2011. The Plaintiff was moved from the "Main Side" to the Central Location: The "Annexed Bldg.," the move was made by Mental Health. Plaintiff was moved to "18-Bldg., 38-Upper. The Plaintiff resided there from the date of 4/23/11 until June, July to the Cental area.

While I was there I noticed that the air Vents, Both upper and lower, were covered with a "Black, Mildew" Like Substance. That appeared to have been there for some time. I further noticed that the Window screens were also filthy. Upon further inspection, I found that the water(Both Shower as well as drinking water) had a unusual color. This Dis-Coloration was also found in the only drinking water I had: The cell sink.

The Plaintiff had to constantly Brush and clean the bowl area that had a build up of a Brownish color. In

In addition, Plaintiff worked in the (GRVC) Sanitation Detail, whereas He had to clean daytime as well as Midnights. His detail include placing blankets on empty beds and issue buckets for MANY areas that had leaks. Areas were always being mopped and clean ups as a result of rain and foul weather. The condition was a constan.

On the date of November 25/26, 2011, Plaintiff started to feel ill. Feelings consisted of stomach, chest discomfort, pain in throat as well as diarrhea and unable to swallow Solid Foods.

On the date of Dec., 5, 2011, results from tests taken earlier, came back with H.Pylori 1.25 High count level.. Toxocogenic Bacterial Gastroenteritis. Causes Dehydration, and protrated Vomiting, Copious and electrolyte imbalance. as well Ocular and respiratory failures.

After Plaintiff was diagnosed with the Viral Disease H.Pylori, Plaintiff was instructed to report to "sick call" any time he felt discomfort. as a result, he had to make MANY trips to sickcall. On the dat of May 10, 2011, after suffering with Pain, and constant gas, sharp pains incchest, he attempted to go to sickcall, as instructed, at 9:30 Am, the regular time for sickcall... At the door, Correctional Officers Carentz and Thomas, told me to go back to my housing unit, and return tomorrow. They gave me no valid reasons for my denial. I informed Capt., Blassingame, who had told me to go to sick call. I then proceded to file a Grievance. It was denied, stated that nothing was done wrong.

It should be noted, that Plaintiff DID NOT entered the DOCNYC system with ANY ailments, Viral or otherwise, It is only after researching H.Pylori, that Plaintiff found out that it is in fact a Gastroenteritis. Meaning that it had to be ingested. To this date June17, 2014, Plaintiff still suffers from Ailments, and is on his prescribed Medication daily.

The above Provides a statement that Identifies the relevant facts and makes a showing of likely merits as to each issue you intend to present on Plaintiff Amended Complaint.

II. Statement of Claim:

Plaintiff, while in the GRVC Sanitation Detail, was located at the Central Location: The "Annexed Building" which was used for the health. Plaintiff was moved to "the Annexed Building" where Plaintiff resided there from the date of the move to the Central area.

While I was there I noticed that the water, was covered with a "Black, gilly" substance. It appeared as if there been there for some time. I noticed that the water was also filthy. Upon further inspection, I found that the water (both Shower as well as Drinking water) had a unusual color. This Dis-coloration was also found in the only drinking water I had: The cell sink.

The Plaintiff had to, constantly brush and clean the water.

Please See Enclosed.
Copy letter's Attached.

I remain Respectfully,

Tony Shaw
TONY SHAW, #12A2399

Pro se: Plaintiff
6/19/2014

In addition, Plaintiff worked in the (GRVC) Sanitation Detail, various times, and the detail involves an 11:00 p.m. to 5:00 a.m. shift. The detail involves cleaning the prison, including the cells, and the detail involves cleaning up after the prisoners. The detail involves cleaning up after the prisoners as a result of rain and foul weather. The detail involves cleaning up after the prisoners as a result of rain and foul weather.

D. Facts:

PLEASE SEE ATTACHED PAPERS

What happened to you?

DUE TO THE FACTS/CAUSE OF ACTION:

Who did what?

The Plaintiff has and will always have to this date **Much Mental Anguish - Intentional Emotional Distress - Pain and Suffering, (P.T.S.D.) Relocation Stress-Syndrome, Internal / Physical Body-Pain Due to Ailment of H. Pylori, High count Level 1.25 From Ingesting water and also Cruel Unusual Punishment** troubled by officials in (GRVC) clinic neglect at Sick call on date of May 10th, 2011.

Was anyone else involved?

Who else saw what happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. **Mental Anguish, Emotional Distress**

Feeling of Weakness, Anxiety, Depression, Decreased in Appetite, Tiredness, Sleep Disturbance, Pain And suffering, Bleeding Ulcer/stool.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

George R. Vierno Center (GRVC)

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☐ No ☐ Do Not Know ☒

If YES, which claim(s)? _____

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☒

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

1. Which claim(s) in this complaint did you grieve? Plaintiff, filed a

grievance on 5/10/2011, being turned away sick call

2. What was the result, if any? IGPS. stated that there

was nothing wrong done,

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. _____

Plaintiff, written to Dora Schriro, NY CDOC
Commissioner on 1-17-2012.

Also, New York City Comptroller's Office

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: _____

2. If you did not file a grievance but informed any officials of your claim, state who you informed, _____

when and how, and their response, if any: _____

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. _____

Plaintiff, written to Ms. Rosa Lugo, who is NYC DOC Record Access Officer, referred CHS Medical Records Unit NYC Dept. of Health and Mental Hygiene, NYC DOC Dept. of Health Affairs Unit.

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount).

Plaintiff, Prayer for Relief. Wherefore, Plaintiff respectfully Prays that this Court enter Judgement Granting Plaintiff the Following;

A Declaration that the Acts or Omissions described herein Violated Plaintiff's Rights under the Constitution and Laws of the United States.

1.) Compensatory Damages in the Amount of \$1,000,000,
2.) Punitive Damages in the Amount of \$1,000,000,
against Each Defendant.

VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☐ No ☒

On
these
claims

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes _____ No _____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?
Yes _____ No _____

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes _____ No _____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19 day of June, 2014

Signature of Plaintiff

Inmate Number

Institution Address

[Signature]
#12A2399
Wende Correctional Facility
Wende Rd., P.O. Box 1187
Alden, N.Y. 14004-1187

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 19 day of June, 2014, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

[Signature]

Tony Shaw, #349-11-06308
09-09 Hazen, St. GRVC
East Elmhurst, N.Y. 11370

Dora Schriro, Commissioner
NYC Department Of Corrections
75-20 Astoria Boulevard
Jacksnn Heights, N.Y. 11370

January 17, 2012

Dear Ms. Schriro;

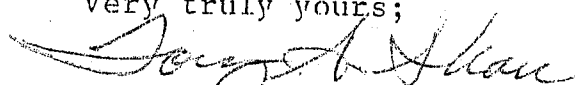
Prior to my arrival at the G.R.V.C. Facility on Rikers Island. My labwork including all bloodwork, Hepatitis, T.B. and H.I.V. testing and all other medical exams indicated no signs of my present condition H.Pylori, which I had contracted after my arrival at this facility.

After my Diagnosis; I am currently being treated for Diarrhea, Difficuly in swallowing, Stomach cramps, Nausea, Constant dehydration and Cold sweating during bed time hours.

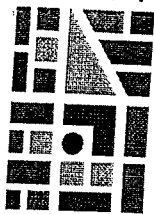
This has caused me a great deal of phsical and emotional problems. such as tramatic and anxiety because of the unhealthy and unlooked at conditions in this facility, which also brought on pain and suffering.

I truly like to hear from you about this matter at your earliest convience!

Very truly yours;


Tony A. Shaw, 3491106308

cc/file M. Peck



**THE
LEGAL
AID
SOCIETY**

Prisoners' Rights Project
199 Water Street
New York, NY 10038
T (212) 577-3530
F (212) 509-8433
www.legal-aid.org

Blaine (Fin) V. Fogg
President

Steven Banks
Attorney-in-Chief

Adriene L. Holder
Attorney-in-Charge
Civil Practice

Joan Boston
Project Director
Prisoners' Rights Project

April 11, 2012

Mr. Tony Shaw
349-11-06308
GRVC
09-09 Hazen Street
Rikers Island
East Elmhurst, NY 11370

Dear Mr. Shaw:

Enclosed is an e-mail letter that we have sent on your behalf to the Department of Health, its medical contractor, Prison Health Services, Inc., Department of Correction and Board of Correction officials after receiving your ~~wife's~~ recent complaint about your health problems.

Please let us know whether or not you receive the medical services that we have requested for you.

Sincerely yours,

DALE A. WILKER
Staff Attorney

DAW:ds

Wilker, Dale

From: Wilker, Dale
Sent: Wednesday, April 11, 2012 5:26 PM
To: Dr. Jay Cowan; Dr. Homer Venters
Cc: 'Amanda.Raad@ropesgray.com'; Amanda Parsons; Donald Doherty; Dr. Carl J. Keldie; Dr. Luis Cintron; Dr. R. Macdonald; George Axelrod; Nancy Arias RN; Patricia Morgese; Vivienne McDonald; capotler@boc.nyc.gov; karmstead@boc.nyc.gov; rtwolf@boc.nyc.gov; Tonya (BOC) Glover
Subject: Tony Shaw 349-11-06308 GRVC
Attachments: Picture (Metafile)



The Prisoners' Rights Project has been contacted by Mr. Shaw who reports through his attorney that he has had trouble swallowing and stomach cramps. He says that he has a high 1.25 level count of H.Pylori.

Would you please have him seen as soon as possible and provided with any appropriate and necessary treatment?

Thank you for your attention to these matters. Please let us know your actions taken to address his medical treatment needs.

Dale A. Wilker

Staff Attorney
The Legal Aid Society
Civil Practice / Prisoners' Rights Project
199 Water Street, Room 6039
New York, New York 10038
tel: 212-577-3530 ext. 3943
fax: 212-509-8433
email: dwilker@legal-aid.org

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Blaine (Fin) V. Fogg
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Steven Banks
Attorney-in-Chief

Adriene L. Holder
Attorney-in-Charge
Civil Practice

John Boston
Project Director
Prisoners' Rights Project

May 18, 2012

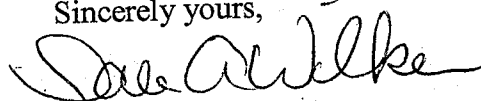
Mr. Tony Shaw
349-11-06308
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09-09 Hazen Street
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Please let us know whether or not you receive the medical services that we have requested for you.

Sincerely yours,



DALE A. WILKER
Staff Attorney

DAW:ds

Wilker, Dale

From: Wilker, Dale
Sent: Friday, May 18, 2012 2:38 PM
To: Dr. Jay Cowan; Dr. Homer Venters; 'Erik Berliner'
Cc: Amanda Parsons; Donald Doherty; Dr. Carl J. Keldie; Dr. Luis Cintron; Dr. R. Macdonald; George Axelrod; Nancy Arias RN; Patricia Morgese; Pinney, Becky; Vivienne McDonald; capotler@boc.nyc.gov; karmstead@boc.nyc.gov; rtwolf@boc.nyc.gov; Tonya (BOC) Glover
Subject: TONY SHAW 349-11-06308 GRVC 19 Bldg
Attachments: Picture (Metafile)



The Prisoners' Rights Project has been contacted by Mr. Shaw who reports that he was "turned back" from sick call yesterday when he tried to get treatment for chest and stomach pains.

He also reports that PHS has not honored a prescription that was written by the dermatologist to treat eczema, psoriasis and a skin rash.

Would you please have him seen as soon as possible and provided with any appropriate and necessary treatment?

Thank you for your attention to these matters. Please let us know your actions taken to address his medical treatment needs, as well as your findings and any actions taken to resolve his complaints about inadequate care and treatment.

Dale A. Wilker

Staff Attorney
The Legal Aid Society
Civil Practice / Prisoners' Rights Project
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New York, New York 10038
tel: 212-577-3530 ext. 3943
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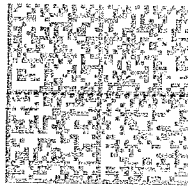
WENDE CORRECTIONAL FACILITY

Wende P.O. Box 1187
Albany, New York 14004-1187

NAME: Zanyshaw DIN: 12A2399 A-2-7

CLERK

United States District Court
Southern District of New York
U.S. Court House - 500 Pearl Street
New York, New York 10007-1312



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